

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

HAROLD E. MONTAGUE,

Plaintiff

v.

MAINWARNING, *et al.*

Defendants

Case No. 2:22-cv-00034-RFB-VCF

**ORDER**

**I. DISCUSSION**

On January 6, 2022, Plaintiff, an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a civil rights complaint under 42 U.S.C. § 1983 and filed an application to proceed *in forma pauperis*. (ECF Nos. 1-1, 1). Plaintiff’s application to proceed *in forma pauperis* is incomplete. Plaintiff has not submitted his application on this Court’s approved form.

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and

(3) a copy of the **inmate’s prison or jail trust fund account statement for the previous six-month period.**

Accordingly, the Court denies Plaintiff’s application to proceed *in forma pauperis* (ECF No. 1) without prejudice because the application is incomplete. The Court will grant Plaintiff a **one-time extension** to file a fully complete application to proceed *in forma*

1 *pauperis* containing all three of the required documents. Plaintiff will file a fully complete  
 2 application to proceed *in forma pauperis* on or before **March 11, 2022**. Absent unusual  
 3 circumstances, the Court will not grant any further extensions of time. If Plaintiff does not  
 4 file a fully complete application to proceed *in forma pauperis* with all three required  
 5 documents on or before **March 11, 2022**, this case will be subject to dismissal without  
 6 prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to acquire all  
 7 three of the documents needed to file a fully complete application to proceed *in forma*  
 8 *pauperis* or pays the full \$402 filing fee.

9 A dismissal without prejudice means Plaintiff does not give up the right to refile the  
 10 case with the Court, under a new case number, when Plaintiff has all three documents  
 11 needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff  
 12 may choose not to file an application to proceed *in forma pauperis* and instead pay the  
 13 full filing fee of \$402 on or before **March 11, 2022** to proceed with this case.

14 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1) but the Court  
 15 will not file the complaint unless and until Plaintiff timely files a fully complete application  
 16 to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

## 17 **II. CONCLUSION**

18 For the foregoing reasons, IT IS ORDERED that Plaintiff's application to proceed  
 19 *in forma pauperis* (ECF No. 1) is denied without prejudice to file a new fully complete  
 20 application to proceed *in forma pauperis* with all three documents.

21 IT IS FURTHER ORDERED that the Clerk of the Court will send Plaintiff the  
 22 approved form application to proceed *in forma pauperis* by an inmate, as well as the  
 23 document entitled information and instructions for filing an *in forma pauperis* application.

24 IT IS FURTHER ORDERED that on or before **March 11, 2022**, Plaintiff will either  
 25 pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52  
 26 administrative fee) or file with the Court:

27 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this

28 Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two

1 signatures on page 3),


2 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail  
3 official (i.e. page 4 of this Court's approved form), and

4 (3) a copy of the **inmate's prison or jail trust fund account statement for the**  
5 **previous six-month period.**

6 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete  
7 application to proceed *in forma pauperis* with all three documents or pay the full \$402  
8 filing fee for a civil action on or before **March 11, 2022**, this case will be subject to  
9 dismissal without prejudice for Plaintiff to refile the case with the Court, under a new case  
10 number, when Plaintiff has all three documents needed to file a complete application to  
11 proceed *in forma pauperis* or pays the the full \$402 filing fee.

12 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint  
13 (ECF No. 1-1) but will not file it at this time.

14 DATED: 1-11-2022



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16 UNITED STATES MAGISTRATE JUDGE  
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